

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Leanne Fornelli	Team: Team # 4	CCRB Case #: 201400888	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 01/17/2014 5:45 PM, Friday, 02/14/2014	Location of Incident: § 87(2)(b) 1829 Lexington Avenue; 23rd Precinct stationhouse	Precinct: 23	18 Mo. SOL 7/17/2015	EO SOL 7/17/2015	
Date/Time CV Reported Sat, 01/25/2014 4:16 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/29/2014 11:39 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Luis Sanchez	13506	947365	023 PCT
2. POM Christopher Reilly	17570	947387	023 PCT
3. SGT Gaspar Sciacca	04264	931192	023 PCT
4. SGT Washington Zurita	03381	918509	023 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Karlina Cortes	13048	939840	023 PCT
2. POM Julio Meyreles	22000	940470	023 PCT
3. POM Norman Ortega	25560	947823	023 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Gaspar Sciacca	Abuse: On January 17, 2014, at § 87(2)(b) in Manhattan, Sgt. Gaspar Sciacca stopped § 87(2)(b)	§ 87(2)(b)
B.POM Luis Sanchez	Abuse: On February 14, 2014, at § 87(2)(b) in Manhattan, PO Luis Sanchez stopped § 87(2)(b)	§ 87(2)(b)
C.POM Luis Sanchez	Abuse: On February 14, 2014, at § 87(2)(b) in Manhattan, PO Luis Sanchez frisked § 87(2)(b)	§ 87(2)(b)
D.POM Luis Sanchez	Abuse: On February 14, 2014, at § 87(2)(b) in Manhattan, PO Luis Sanchez searched § 87(2)(b)	§ 87(2)(b)
E.SGT Washington Zurita	Abuse: On February 14, 2014, at the 23rd Precinct stationhouse, Lt. Washington Zurita authorized the strip-search of § 87(2)(b)	§ 87(2)(b)
F.POM Christopher Reilly	Abuse: On February 14, 2014, at the 23rd Precinct stationhouse, PO Christopher Reilly strip-searched § 87(2)(b)	§ 87(2)(b)

### Case Summary

On January 25, 2014, § 87(2)(b) filed this complaint with the Internal Affairs Bureau (IAB) via telephone on behalf of her brother, § 87(2)(b) also known as § 87(2)(b) but referred to as the former for the purposes of this report as this was the name he would provide to the Civilian Complaint Review Board (CCRB). On January 29, 2014, the CCRB received this complaint under IAB log number 14-3325. § 87(2)(b) did not witness the following incidents. On January 17, 2014, at 5:45 p.m., at § 87(2)(b) in Manhattan and on February 14, 2014, at § 87(2)(b) § 87(2)(b) was arrested by officers of the 23<sup>rd</sup> Precinct with a top charge of criminal trespass. The following allegations resulted from these incidents:

**Allegation A: Abuse of Authority: On January 17, 2014, at § 87(2)(b) in Manhattan, Sgt. Gaspar Sciacca stopped § 87(2)(b)**

§ 87(2)(b), § 87(2)(g)

**Allegation B: Abuse of Authority: On February 14, 2014, at § 87(2)(b) in Manhattan, PO Luis Sanchez stopped § 87(2)(b)**

**Allegation C: Abuse of Authority: On February 14, 2014, at § 87(2)(b) in Manhattan, PO Luis Sanchez frisked § 87(2)(b)**

**Allegation D: Abuse of Authority: On February 14, 2014, at § 87(2)(b) in Manhattan, PO Luis Sanchez searched § 87(2)(b)**

**Allegation E: Abuse of Authority: On February 14, 2014, at the 23rd Precinct stationhouse, Lt. Washington Zurita authorized the strip-search of § 87(2)(b)**

**Allegation F: Abuse of Authority: On February 14, 2014, at the 23rd Precinct stationhouse, PO Christopher Reilly strip-searched § 87(2)(b)**

§ 87(2)(b), § 87(2)(g)

The allegation of a strip-search and § 87(2)(b)'s arrests rendered this case ineligible for mediation. On September 21, 2014, the undersigned investigator received the file for Case 2014-2237 from IAB, who conducted an investigation into the first incident.

### Results of Investigation

#### Civilian Statement

**Complainant/Victim:** § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)
- § 87(2)(b)

#### CCRB Testimony

On April 4, 2014, § 87(2)(b) was interviewed at the CCRB (encl. 5b-5j). Any inconsistencies and additional information from the phone statement that he provided on March 31, 2014 (encl. 5a), the additional information he provided over the phone on May 16, 2014 (encl.

5k), or the § 87(2)(a) Gen. Mun. § 50-h(3) regarding the first incident are noted below.

On January 17, 2014, after the first incident with officers, § 87(2)(b) suffered a seizure at a stationhouse determined to be the 23<sup>rd</sup> Precinct (he had no recollection of being there) and was taken to § 87(2)(b). He was in a coma and was released from the hospital on § 87(2)(b), at which time he was taken to Manhattan Central Booking. He experienced memory loss and initially relayed the events of the incident as if he could recall them, but later clarified that he was only assuming most of the details. In his phone statement, he said he could not recall anything after his initial arrest. After being told to provide only information of which he had an independent recollection, he relayed the following:

On January 17, 2014, at approximately 5:45 p.m., § 87(2)(b) was leaving § 87(2)(b) a NYCHA building. He left § 87(2)(b) the residence of his friend § 87(2)(b) § 87(2)(b) § 87(2)(b) (no phone number known), identified via the investigation as § 87(2)(b) after having been in her apartment for an hour and a half. § 87(2)(b) who was alone, took the elevator downstairs to the lobby § 87(2)(b), § 87(2)(a) Gen. Mun. § 50-h(3)

Two officers § 87(2)(b) could not recall if they were in uniform or plainclothes), PO1 and PO2, stood near the mailboxes in the lobby, which were about four feet away from the elevator. § 87(2)(b) initially said these officers were those identified as PO Julio Meyreles (described as a dark-skinned Hispanic male, 6'0" tall, 200 pounds, average body build, in his early 30s, dark hair in a Caesar cut, spoke with a heavy Spanish accent) and PO Luis Sanchez (described as a light-skinned Hispanic male, 6'2" tall, 230 pounds, stocky body build, in his mid-30s, blonde hair, no accented speech) of the 23<sup>rd</sup> Precinct because they were involved in the incident on February 14, 2014, and seemed to recognize him on that day. If not for this, he would not have known the identity of the officers.

§ 87(2)(b) went to exit the building through the backdoor, which leads to Lexington Avenue, when either PO1 or PO2 § 87(2)(b) was unsure of whom) asked him, "Where you just came from?" § 87(2)(b) provided the officers with § 87(2)(b)'s name and apartment number. Either PO1 or PO2 § 87(2)(b) was unsure of whom) went upstairs via the elevator while the other stayed with him. After three minutes, the officer returned to the lobby and said that § 87(2)(b) did not come from the apartment from which he said he had. § 87(2)(b) told the officer that he knocked on the wrong door. § 87(2)(b) could not recall if the officer responded. The same officer proceeded to pat down § 87(2)(b) on his arms, waist and legs. The officer then reached inside § 87(2)(b)'s underwear from the front and touched underneath his testicles. § 87(2)(b) asked, "What you doing?" The officer said, "I know you got marihuana on you." § 87(2)(b) did not respond to this. After one or two minutes, the officer found two small clear plastic bags of marihuana in his underwear at the same time. The officer handcuffed § 87(2)(b)

§ 87(2)(b) initially said his last memory of the incident was when he told the officer he knocked on the wrong door. When asked if he could recall the search, he said he could and clarified that being handcuffed was his last memory. When he awoke in § 87(2)(b) a uniformed officer, PO3 (described as a white male, average body build, in his late 20s, blonde hair), told him that he had a seizure upon walking into the stationhouse and was under arrest for trespassing and destroying evidence, as he tried to swallow cocaine. § 87(2)(b) denied having cocaine on his person. He did not know why he had a seizure, he had never had one before and he had no history of any condition that causes them.

After the incident, his friend § 87(2)(b) (could not recall last name), identified via the investigation as § 87(2)(b) who lives in § 87(2)(b) of § 87(2)(b)

informed him that she when she was leaving her building, she saw officers beating him up. § 87(2)(b) could not recall being beat up by officers, but found bruises and cuts on his body indicative of this. § 87(2)(a) Gen. Mun. § 50-h(3)

On February 14, 2014, at approximately 6:55 p.m., § 87(2)(b) entered the lobby of § 87(2)(b) a NYCHA building next-door to § 87(2)(b). The door is always open in this building and the majority of the surrounding ones, so he needed no key to gain entrance. He was staying with a friend, § 87(2)(b) identified via the investigation as § 87(2)(b) in § 87(2)(b) because his grandmother, with whom he lived, kicked him out as a result of the first incident. At the time of this incident, he had been staying with § 87(2)(b) for about two days. In the lobby, § 87(2)(b) saw two plainclothes officers, identified via the investigation as PO Meyreles and PO Sanchez, whom he did not recognize.

§ 87(2)(b) pressed the button to open the elevator, which was already on the ground floor, and was about to get inside when PO Meyreles said, “Oh, you a bad man. You almost died and you still doing what you doing?” § 87(2)(b) asked, “What? What are you talking about?” The officers began speaking in Spanish, which § 87(2)(b) does not understand, and they then asked, “Where you going?” § 87(2)(b) told the officers that he was going home. Both officers inquired after the apartment number and § 87(2)(b) told them. The officers asked for § 87(2)(b)'s identification and asked him if he lived there. § 87(2)(b) said, “Yes, but my ID don’t say that.” The officers checked § 87(2)(b)'s identification, which stated that he lived in § 87(2)(b) and said, “You don’t live here.” § 87(2)(b) tried to explain his situation and said if the officers took him upstairs, he could show them that he had the key to an apartment. He showed the officers the key, but they did not take him upstairs.

PO Meyreles patted down the top of § 87(2)(b)'s body and then grabbed § 87(2)(b)'s testicles from the outside of his pants before patting him down to his shoes. PO Meyreles reached into all four of his pants pockets, but did not remove any items. PO Meyreles said to PO Sanchez, “He don’t got nothing.” The officers again began speaking Spanish for a minute or two. PO Meyreles repeated this process of patting him down and searching his pockets for a second time the exact same way as before. PO Meyreles was the only officer to do this, as PO Sanchez did not touch him. PO Meyreles said to PO Sanchez, “He don’t have nothing.” PO Sanchez said, “All right. Let him go.” PO Meyreles began speaking in Spanish, after which time he searched § 87(2)(b) again in the same manner as before for a third time. § 87(2)(b) was then handcuffed.

§ 87(2)(b) told the officers the apartment number to which he had been headed. PO Sanchez went upstairs by himself via the elevator even after § 87(2)(b) told him no one was inside the apartment, to which PO Sanchez did not respond. PO Meyreles stayed with § 87(2)(b). PO Sanchez came back downstairs after five minutes and asked § 87(2)(b) why he lied. § 87(2)(b) told PO Sanchez he had the wrong door and asked him what door he knocked on. PO Sanchez said either § 87(2)(b) or § 87(2)(b). § 87(2)(b) told PO Sanchez that he knocked on the wrong door, but he did not respond.

PO Meyreles patted § 87(2)(b) down and searched him for a fourth and fifth time consecutively in the same manner as before. PO Meyreles kept saying, “Oh, you’re bad. You still doing what you doing. Why you shaking?” § 87(2)(b) said, “I got bad nerves.” When § 87(2)(b) was arrested, the belongings on his person were taken out of his pockets and placed in an envelope. PO Sanchez called a car via his radio and escorted him toward the area near the backdoor. While waiting, a second individual was arrested for trespassing. After two or three minutes, PO Meyreles escorted § 87(2)(b) to a marked van and then returned to the building.

§ 87(2)(b) was transported to the 23<sup>rd</sup> Precinct stationhouse by two uniformed officers identified via the investigation as PO Daniel Talleyrand (driver; described as a Hispanic male, 5'5" to 5'6" tall, black hair, in his early 30s) and PO Karlina Cortes (front passenger; described as a Hispanic female, 5'5" to 5'6" tall, average body build, late 20s, black hair) of the 23<sup>rd</sup> Precinct. At the stationhouse, everyone was saying, "That's the boy that swallowed something." § 87(2)(b) was escorted to a cell.

After a half hour, a uniformed officer identified via investigation as PO Christopher Reilly of the 23<sup>rd</sup> Precinct (described as a white male, stocky body build, blonde hair, in his late 30s) came to retrieve § 87(2)(b). PO Reilly said he was taking § 87(2)(b) into a bathroom to be strip-searched. PO Reilly eventually told § 87(2)(b) that he had been at the hospital with him on January 17, 2014, but § 87(2)(b) could not recall this. PO Reilly took § 87(2)(b) to the bathroom next to the cell area and instructed § 87(2)(b) to remove his shirt, pants, socks and boots, which he did. PO Reilly told him to clap his boots and turn his socks inside out, which he did. PO Reilly looked inside the pockets of § 87(2)(b)'s pants. PO Reilly then instructed him to remove his underwear, turn around, bend over, cough and squat, which he did in this order. Nothing was found during this strip-search.

§ 87(2)(b) was brought back to the cell and was released an hour later with a desk appearance ticket for trespassing. § 87(2)(b)

**Witness:** § 87(2)(b)

§ 87(2)(b) is a § 87(2)(b).

### **CCRB Phone Statement**

On April 6, 2014, § 87(2)(b) provided a phone statement to the CCRB (encl. 6a). He knew § 87(2)(b) who has visited and slept over at his apartment, located at § 87(2)(b). § 87(2)(b). § 87(2)(b) has never had a key to the apartment unless § 87(2)(b) gave him one briefly while he ran errands. § 87(2)(b) could not recall if § 87(2)(b) had a key to his apartment on February 14, 2014. § 87(2)(b) did stay with § 87(2)(b) for a night or two in February, but he was unsure if February 14, 2014, was one of these dates.

### **Attempts to Contact Civilians**

- On April 10, 2014, a LexisNexis search revealed a listing with an apartment number, two phone numbers and an email address for § 87(2)(b) who resides at § 87(2)(b). Between April 16, 2014, and May 14, 2014, five attempts were made to reach her via telephone and each time, both phone numbers were out of service except the first time, when one of the numbers rang continuously without an option for voicemail. On April 16, 2014, and May 1, 2014, two please call letters were sent to her and they have not been returned by the United States Postal Service (USPS). On May 1, 2014, a search of the New York City Department of Corrections (NYC DOC) website revealed that she was not incarcerated. To date, she has not contacted the undersigned investigator.
- On April 10, 2014, a LexisNexis search revealed a listing with an apartment number and phone number for § 87(2)(b) who resides at § 87(2)(b). Between April 16, 2014, and May 14, 2014, five attempts were made to reach her via telephone and each time, the phone rang continuously without an option for voicemail except the first time, when an automated message was received that the voicemail box had not been set up. On April 16, 2014, and May 1, 2014, two please call letters were sent to her and they have not been returned by the USPS. On May 1, 2014, a search of the NYC DOC website revealed that she was not incarcerated. To date, she has not contacted the undersigned investigator.

## **NYPD Statements:**

### **Witness Officer: PO KARLINA CORTES**

- *PO Cortes is a § 87(2)(b).*
- *On January 17, 2014, PO Cortes was on duty from 2:00 p.m. until 10:35 p.m. as the 23<sup>rd</sup> Precinct SNEU Team with PO Christopher Reilly and PO Michael Cintron, was dressed in uniform, and was assigned to an unmarked black Chevy Impala (number unknown).*
- *On February 14, 2014, PO Cortes was on duty from 2:00 p.m. until 10:35 p.m. as the 23<sup>rd</sup> Precinct Conditions Team with PO Daniel Talleyrand, was dressed in uniform, and was assigned to a marked van, number 8847.*

### **Memo Book**

PO Cortes made the following notations in her memo book (encl. 7a-7c): On January 17, 2014, at 7:45 p.m., § 87(2)(b) (named as § 87(2)(b)) was placed under arrest for tampering with physical evidence (PL 215.40), criminal trespassing in the third degree (PL 140.13), criminal possession of a controlled substance in the seventh degree (PL 220.03) and unlawful possession of marihuana (PL 221.05). At 6:00 p.m., he was transported to § 87(2)(b) via EMS.

### **Arrest Report**

On January 17, 2014, PO Cortes generated Arrest Report § 87(2)(b) (encl. 7d-7f) for § 87(2)(b) (named as § 87(2)(b)) which contained the following information: § 87(2)(b) was charged with tampering with physical evidence – conceal/destroy (top charge), trespassing, criminal possession of a controlled substance and unlawful possession of marihuana. He was observed inside a NYCHA building without legitimate purpose or authority to be there. During a search incident to the lawful arrest, he was found to be in possession of marihuana. En route to the stationhouse, he ingested what appeared to be cocaine, “in order for said evidence to be used in an official proceeding.” The report noted that no force was used.

### **Criminal Court Complaint**

On January 17, 2014, PO Cortes provided the following statement in a criminal court complaint (encl. 7g-7i): § 87(2)(b) entered and remained unlawfully inside § 87(2)(b) a NYCHA building, intentionally attempted to prevent an officer and peace officer from effecting the authorized arrest of himself and another person, intentionally devised and prepared false physical evidence and unlawfully possessed marihuana. PO Cortes saw § 87(2)(b) enter the building and knew he was not a resident when Sgt. Sciacca informed her that he provided a different home address. She knew he was not an invited guest because he could provide no name to Sgt. Sciacca of anyone he was visiting. She observed § 87(2)(b) twisting away from Sgt. Sciacca and refusing to put his hands behind his back when apprehended. PO Sanchez informed her that he recovered six bags of marihuana from § 87(2)(b)'s underwear and en route to the stationhouse, § 87(2)(b) swallowed cocaine.

### **CCRB Testimony**

On July 2, 2014, PO Cortes was interviewed at the CCRB (encl. 7j-7n).

On January 17, 2014, at approximately 5:45 p.m., PO Cortes was conducting an observation post on Lexington Avenue in an unmarked patrol car facing southbound, across the

street from the rear entrance of § 87(2)(b) PO Cortes sat in the driver's seat, PO Reilly sat in the front passenger's seat and PO Cintron sat in the middle backseat. The officers were at this location because of the many complaints received from its tenants regarding drug activity including in the stairwells, trespassing and robberies.

When PO Cortes first observed § 87(2)(b) who was alone, he came from the side of § 87(2)(b) (he was not inside any building) and crossed the street. He was standing outside when an unidentified male who was heading north on Lexington Avenue approached him and the two fist bumped. PO Cortes observed no transaction and no currency. They spoke for a couple minutes before entering § 87(2)(b) They only needed to force open the door, as it was unlocked. As the door to the building has a window, PO Cortes could see movements inside, but could not determine from this what they were doing. She saw no transaction occur inside the building. After two minutes, § 87(2)(b) and the male exited the building. The male then re-entered the building and did not exit again, but PO Cortes did not know where he went. At this time, PO Cortes' suspicions of § 87(2)(b) were not raised.

§ 87(2)(b) then entered § 87(2)(b) the door of which was also unlocked. Five minutes later, he exited and a second unidentified male (described as a black male wearing dirty clothing; PO Cortes could not recall his name) then arrived, but PO Cortes did not know from where he came. PO Cortes thought this individual was a drug user based on her experience of arresting drug users, who have a similar demeanor, similar way they look around and similar way they approach people. The second male and § 87(2)(b) spoke for about five minutes, during which time no fist bump or other physical contact occurred. While they spoke, it seemed that the second male was repeatedly asking § 87(2)(b) for something. § 87(2)(b) then held out his arm toward the second male as if to communicate to him that he should wait. § 87(2)(b) then entered § 87(2)(b) leaving the second male outside, at which point PO Cortes' suspicions were raised. § 87(2)(b) exited the building after two minutes, motioned for the individual to follow him and both entered § 87(2)(b) but PO Cortes could not see where.

At this time, over the closed-channel radio, PO Cortes said, "We might have two 'possibles.' I will let you know," and provided the descriptions of § 87(2)(b) and the second male. Sgt. Sciacca was in the catch the car while PO Louis Sanchez and PO Norman Ortega were in the prisoner van. The approach of the second male to § 87(2)(b) and § 87(2)(b) accessing two buildings gave PO Cortes reasonable suspicion that both were trespassing, which justified the stops of their persons. Nothing further contributed to this suspicion and PO Cortes suspected them of nothing else. If § 87(2)(b) and the second male were unable to adequately answer the questions that Sgt. Sciacca would pose to them regarding their business in the building, they would be placed under arrest. Within a minute, the second male came back outside by himself with nothing in his hands. PO Cortes never saw a transaction occur or currency. The second male passed directly in front of the patrol car and walked from Lexington Avenue to Park Avenue via an outside pathway through the middle of the NYCHA complex. PO Cortes put over the radio the direction of the second male, who was eventually stopped by officers in the catch car, and the location in and out of which he had been going. PO Cortes did not witness the officers approach the second male.

§ 87(2)(b) then exited § 87(2)(b) alone, crossed the street and followed the same path as the second male had, passing directly in front of the patrol car as he did so. PO Reilly exited the patrol car to follow § 87(2)(b) and ensure the other officers did not lose sight of him and apprehended the right person. PO Cortes then put § 87(2)(b)'s physical description (black male) and clothing description (she could not recall) over the radio and said out of which two buildings § 87(2)(b) had come. This was the last PO Cortes saw of § 87(2)(b) before his arrest for criminal trespassing and she had no interaction with him up to this point. She did not

witness his apprehension. PO Cortes knew of no force being used on § 87(2)(b) and no officer mentioned this to her. She learned that at the stationhouse, § 87(2)(b) was found with contraband which she thought included a crack pipe, but could not recall for certain.

At the stationhouse, PO Cortes heard officers calling for a boss because it seemed as if § 87(2)(b) ingested something. PO Cortes came out of the stationhouse to see what was going on and observed § 87(2)(b) being taken out of the prisoner van. As § 87(2)(b) was beginning to sweat profusely and mumble, an ambulance was called for him. PO Cortes observed no injuries on § 87(2)(b) who was handcuffed. While PO Cortes was standing four or five feet away from § 87(2)(b) he leaned forward and collapsed to the ground and began convulsing. § 87(2)(b)'s forehead hit the ground, resulting in a large bump to his forehead. Besides this, PO Cortes observed no other injuries on him after he fell to the ground. § 87(2)(b) was transported to the hospital and PO Cortes thought that PO Reilly escorted him there, but was unsure.

On February 14, 2014, at 6:55 p.m., PO Cortes was assigned to the prisoner van, which was parked next to § 87(2)(b). She was in the front passenger's seat and PO Talleyrand was driving. PO Meyreles and PO Sanchez knocked on the van with two males, one of whom was § 87(2)(b) and the other who PO Cortes did not know. She was informed that § 87(2)(b) was arrested for trespassing. § 87(2)(b) was angry and cursing, making statements that included, "I'm going to sue your ass," and "Fuck you." On the way to the stationhouse, nothing happened inside the van with § 87(2)(b) who made no notable movements. PO Cortes did not recommend that he be strip-searched and knew nothing of this occurring. She said that either Lt. Zurita or the supervising sergeant would make this call. She never heard a recommendation that § 87(2)(b) should be strip-searched.

**Subject Officer: PO CHRISTOPHER REILLY**

- PO Reilly is a § 87(2)(b).
- On January 17, 2014, PO Reilly was on duty from 2:00 p.m. until 10:35 p.m. as the 23<sup>rd</sup> Precinct SNEU Team with PO Karlina Cortes and PO Cintron, was dressed in plainclothes and assigned to an unmarked vehicle (could not recall description or fleet number).
- On February 14, 2014, PO Reilly was on duty from 2:00 p.m. until 10:45 p.m. as the 23<sup>rd</sup> Precinct SNEU Team (he could not recall with whom), was dressed in plainclothes and could not recall his motor vehicle assignment.

**Memo Book**

PO Reilly made no entries in his memo book regarding either incident (encl. 13a-13c).

**CCRB Testimony**

On October 31, 2014, PO Reilly was interviewed at the CCRB (encl. 13d-13f). Inconsistencies with PO Cortes's testimony and any additional information are included below.

On January 17, 2014, at approximately 5:45 p.m., PO Cortes made an observation of § 87(2)(b) based upon which he was approached, stopped and arrested. PO Reilly did not make these observations, and was probably focused on another building (he could not recall which) at the time. He could not recall observing § 87(2)(b) at all. He could not recall PO Cortes going over the radio or cellphone in regard to her observations of § 87(2)(b). He did not witness § 87(2)(b)'s apprehension. At the stationhouse, the prisoners who included § 87(2)(b) were escorted inside and lined up in front of the desk sergeant behind the desk. PO Reilly observed no injury on § 87(2)(b) suffered a seizure, causing him to collapse to the floor and



hit his head. PO Reilly escorted § 87(2)(b) to the hospital. In the ambulance, PO Reilly observed bruising to § 87(2)(b)'s head, which he thought § 87(2)(b) obtained from falling to the floor. He saw nothing else occur that could have caused this injury. He did not see officers use physical force on § 87(2)(b).

PO Reilly could not recall if any part of his tour on February 14, 2014, was spent at the stationhouse. He denied seeing § 87(2)(b) on this day and strip-searching him.

**Subject Officer: SGT GASPAR SCIACCA**

- *Sgt. Sciacca is a § 87(2)(b).*
- *On January 17, 2014, Sgt. Sciacca was on duty from 2:00 p.m. until 10:57 p.m. as the 23<sup>rd</sup> Precinct SNEU Team Supervisor, was working with PO Julio Meyreles, was dressed in uniform and using an unmarked gray car, number 839.*
- *On February 14, 2014, Sgt. Sciacca was not involved in the incident with § 87(2)(b).*

**Memo Book**

Sgt. Sciacca made the following notations in his memo book (encl. 11a-11c): At 6:45 p.m., § 87(2)(b) (named as § 87(2)(b) was arrested at § 87(2)(b) for criminal trespass by the field team. Sgt. Sciacca did not read the following into the record during his interview and while the handwriting is unclear, the undersigned investigator deciphered the following: At 6:45 p.m., he was notified by the prisoner van that § 87(2)(b) possibly ingested en route to the precinct stationhouse. At 6:55 p.m., an ambulance was called for the possible ingestion and PO Reilly was assigned to escort.

**CCRB Testimony**

On October 22, 2014, Sgt. Sciacca was interviewed at the CCRB (encl. 11d-11f). Inconsistencies with PO Cortes's testimony and additional information are noted below.

On January 17, 2014, at approximately 6:45 p.m., a SNEU set was being conducted and Sgt. Sciacca's patrol car was on Park Avenue, which runs parallel to Lexington Avenue, where the incident occurred. PO Cortes put over the point-to-point radio that § 87(2)(b) was observed exiting and entering three different NYCHA buildings that included § 87(2)(b) (he could not recall the addresses of the other two). Sgt. Sciacca knew from his SNEU experience that this behavior, which SNEU officers look for, was indicative of drug sales and signified someone going into the buildings to buy or sell drugs in the lobby or stairwell. PO Cortes did not mention any other behavior or any transaction that she observed. PO Cortes put over § 87(2)(b)'s description, and said he was walking toward Sgt. Sciacca's location.

Sgt. Sciacca observed § 87(2)(b) walking toward him and he stopped him. § 87(2)(b) was not free to go. When asked why § 87(2)(b) was not free to go, given that he was leaving the buildings and was not anywhere near them, Sgt. Sciacca said the officers were conducting a SNEU set and were there for the purpose of finding drug sales, so arresting someone for trespassing is a tactic the officers will use to accomplish this. § 87(2)(b) was stopped after walking a safe distance away from the buildings as to not reveal the officers' covers. Thus, while Sgt. Sciacca thought it was possible that § 87(2)(b) was involved in a drug sale, the only sure suspicion he had was trespassing.

No officer from the observation post followed § 87(2)(b). Sgt. Sciacca first identified himself as an officer, although he was in uniform, and then asked § 87(2)(b) from where he was coming. § 87(2)(b) answered that he was coming from his house. Sgt. Sciacca asked § 87(2)(b) where he lived and § 87(2)(b) indicated one of the NYCHA buildings (Sgt. Sciacca

could not recall which one) on Lexington Avenue, by pointing at it and stating the address. Sgt. Sciacca asked § 87(2)(b) if he was inside any other building, and he answered no. Sgt. Sciacca asked § 87(2)(b) if he made any stops along the way or if he was anywhere before he was at home, in order to give him several opportunities to tell him that he was in one of the other NYCHA buildings. § 87(2)(b) said that he was only at home, and he had just walked out of his house when Sgt. Sciacca stopped him. § 87(2)(b) did not mention visiting any friends inside the buildings. If § 87(2)(b) had been coming from his residence or had a good explanation for where he was, he would have been released, but he denied coming out of two other buildings, which was confirmed, and provided no explanation for his actions.

During this interaction, § 87(2)(b) seemed to be in good health and Sgt. Sciacca observed no injuries on him, including bruises or cuts, or bizarre behavior. § 87(2)(b) was not reaching or squirming in any way. No physical force was needed during the interaction with § 87(2)(b) who offered no resistance. Sgt. Sciacca used no physical force on § 87(2)(b) and saw no officer do this. He could recall no interaction between PO Meyreles and § 87(2)(b) and PO Meyreles took no police action in regard to § 87(2)(b). He could not recall where PO Meyreles was during this time. Sgt. Sciacca placed § 87(2)(b) under arrest for criminal trespass. He handcuffed § 87(2)(b) and searched his pockets to retrieve his property, during which time he found no contraband. Sgt. Sciacca also patted down § 87(2)(b) which was incident to his arrest along with the search. Neither Sgt. Sciacca nor any officer searched § 87(2)(b)'s pockets or patted him down before he was placed under arrest. Sgt. Sciacca then called the prisoner van to the location and placed § 87(2)(b) inside with two other prisoners who were already inside. Sgt. Sciacca continued with his SNEU set which made one more arrest before they returned to the 23<sup>rd</sup> Precinct stationhouse.

At the stationhouse, Sgt. Sciacca went behind the front desk. The prisoners including § 87(2)(b) were lined up in front of the desk while waiting to go to the cell area. PO Sanchez informed Sgt. Sciacca of the following: In the prisoner van, § 87(2)(b) was “dipping” in the seat (Sgt. Sciacca understood this to mean bending down and slouching in his seat). PO Sanchez, who was alerted to something going on from these movements, went around to § 87(2)(b)'s door and saw him dig into his pants, at which time PO Sanchez recovered marihuana from the back of § 87(2)(b)'s pants. One of the other prisoners told PO Ortega and PO Sanchez that he thought § 87(2)(b) put something white in his mouth. During this conversation, § 87(2)(b) fell to the floor and hit his head on the ground, where he began convulsing. After this point, Sgt. Sciacca observed a bruise to his forehead and nothing else occurred during the incident that could have caused this. § 87(2)(b) was transported in the ambulance to the hospital.

**Subject Officer: PO LUIS SANCHEZ**

- *PO Sanchez is a § 87(2)(b).*
- *On January 17, 2014, PO Sanchez was on duty from 12:00 p.m. until 8:45 p.m. as the 23<sup>rd</sup> Precinct SNEU Team with PO Norman Ortega, was dressed in uniform and assigned to a marked prisoner van, number 8847.*
- *On February 14, 2014, PO Sanchez was on duty from 2:00 p.m. until 10:35 p.m. as the 23<sup>rd</sup> Precinct SNEU Team with PO Meyreles, was dressed in plainclothes and had no motor vehicle assignment.*

**Memo Book**

PO Sanchez made the following notations in his memo book (encl. 9a-9e): On January 17, 2014, at 5:45 p.m., § 87(2)(b) (named as Omar § 87(2)(b)) entered the prisoner van. At 6:45 p.m., he notified Sgt. Sciacca that § 87(2)(b) probably swallowed an object on East 102<sup>nd</sup>

Street and 3<sup>rd</sup> Avenue en route to the 23<sup>rd</sup> Precinct stationhouse. At 6:55 p.m., he notified EMS and they transported him to § 87(2)(b) Hospital. On February 14, 2014, at 6:50 p.m., § 87(2)(b) was stopped inside § 87(2)(b). The defendant stated that he was staying in § 87(2)(b). PO Meyreles went to the apartment. A male named § 87(2)(b) stated that he did not know that person. At 6:55 p.m., an arrest was made for criminal trespass (Arrest § 87(2)(b)).

### **Arrest Report**

On February 14, 2014, PO Sanchez generated Arrest Report § 87(2)(b) (encl. 9f-9h) for § 87(2)(b) and it contained the following information: § 87(2)(b) was inside a NYCHA building without permission or authority to be there. He was charged with criminal trespass in the second degree (top and only charge).

### **CCRB Testimony**

On October 2, 2014, PO Sanchez was interviewed at the CCRB (encl. 9i-9m). Any inconsistencies with Sgt. Sciacca's testimony and additional information are noted below.

On January 17, 2014, at 5:45 p.m., the prisoner van was parked on East 108<sup>th</sup> Street and 3<sup>rd</sup> Avenue, located about three blocks from § 87(2)(b). PO Sanchez did not witness the apprehension of § 87(2)(b) and received no information about it. § 87(2)(b) was driven to the prisoner van (PO Sanchez could not recall by who or how many officers). PO Sanchez did not see § 87(2)(b) searched or patted down, but an officer would have done this before placing him in the catch car. PO Sanchez placed § 87(2)(b) inside the back of the van in between the other two prisoners. PO Sanchez observed no injuries on § 87(2)(b). He did not use any physical force on § 87(2)(b) and saw no officer do this.

In the van, § 87(2)(b) kept moving and reaching into his pants behind his back as if reaching for something. The officers were still stationary as they were still waiting for any more perpetrators. PO Sanchez moved § 87(2)(b) to the second row of the van at another prisoner's request. PO Sanchez thought this prisoner did not want to get charged with anything § 87(2)(b) dropped. § 87(2)(b) kept reaching and moving. PO Sanchez told him multiple times, "You better stop moving. If you drop something in the van, everyone's going to get charged with the same charge." PO Ortega also told § 87(2)(b) to stop moving, but § 87(2)(b) did not heed either of the officers' commands. After the last prisoner, § 87(2)(b) was placed inside the van, the officers proceeded to the stationhouse.

En route to the stationhouse, § 87(2)(b) kept moving and lay down on the seat before sitting up again. In the parking lot of the stationhouse, where § 87(2)(b) was continuing to move, PO Sanchez went to § 87(2)(b)'s seat from inside the van to see what was happening. PO Sanchez patted down § 87(2)(b) while he was seated and felt something like a bag inside his pants on his buttocks. PO Sanchez reached inside the back of § 87(2)(b)'s pants and pulled out a bag with six small bags of marihuana inside. PO Ortega took § 87(2)(b) and the two other prisoners inside the stationhouse.

§ 87(2)(b) told PO Sanchez in reference to § 87(2)(b) "Officer, that guy swallowed something." PO Sanchez called Sgt. Sciacca and informed him of this. PO Sanchez walked § 87(2)(b) into the stationhouse. As soon as PO Sanchez entered the stationhouse, he heard a boom and saw § 87(2)(b) having a seizure on the floor, but he did not see him fall to the floor. PO Sanchez brought § 87(2)(b) to the front desk. He then took hold of § 87(2)(b) and placed him in between his legs to hold his head, because it was hitting the floor as he was convulsing. § 87(2)(b) was immediately transported to § 87(2)(b) Hospital.

On February 14, 2014, at 6:50 p.m., PO Sanchez and PO Meyreles were doing a SNEU set inside the lobby of § 87(2)(b) a NYCHA building. This lobby has a front door

that accesses 3<sup>rd</sup> Avenue via a courtyard and a back door that accesses Lexington Avenue. The locks on both these doors are broken. Between the doors is an elevator bank that completely blocks the view of the opposite door. Upon entering via the 3<sup>rd</sup> Avenue entrance, a staircase is on the right. Upon entering via the Lexington Avenue entrance, a staircase is straight ahead. The officers knew the building to be a drug-prone location based on search warrants they executed there and drug dealers were known to sell in the lobby.

PO Sanchez was standing near one of the entrances (he could not recall which, but initially said it was the rear entrance) and was peeking out from behind the elevators, where he was hiding because he did not want to be seen, when he first saw § 87(2)(b) in the lobby. At that time, PO Sanchez and PO Meyreles had just arrived to the building. § 87(2)(b) was looking outside through the door in the window. PO Sanchez's attention was drawn to § 87(2)(b) because he was lingering in the lobby, walking around and looking outside as if he was waiting for something. PO Sanchez never saw § 87(2)(b) enter the building and he never seemed to be leaving. During this time, PO Meyreles was behind PO Sanchez, watching the staircase.

After observing § 87(2)(b) for less than a minute, PO Sanchez approached and stopped § 87(2)(b). Besides the aforementioned behavior, nothing else factored in PO Sanchez's decision to stop § 87(2)(b). PO Sanchez intended to learn § 87(2)(b)'s business at the building and based on his behavior, PO Sanchez suspected he was waiting to sell drugs to somebody, although he was not stopped for this. He asked § 87(2)(b) if he lived in the building. § 87(2)(b) said he did not, but was staying in § 87(2)(b) because he was having problems with his grandmother, with whom he lived. After PO Sanchez collected § 87(2)(b)'s identification, he recognized § 87(2)(b) from the previous incident from the name on the identification, but not before this time. § 87(2)(b) did not show a key to the officers or give them a name of the person with whom he was staying. PO Sanchez and PO Meyreles speak Spanish, but they spoke English in front of § 87(2)(b). PO Sanchez told PO Meyreles in English, "I think this is the guy who swallowed the drugs," but it did not seem that PO Meyreles recognized him. PO Sanchez did not call § 87(2)(b) a "bad man," nor did PO Meyreles say this. Neither PO Sanchez nor PO Meyreles said anything directly to § 87(2)(b) about the previous incident.

PO Meyreles went upstairs with § 87(2)(b)'s identification to confirm § 87(2)(b)'s story and PO Sanchez stayed downstairs with § 87(2)(b) who was not free to go given the investigation being conducted. PO Sanchez did not observe anything on § 87(2)(b)'s person that made him feel unsafe. There were no bulges on § 87(2)(b)'s person or anything resembling a weapon. § 87(2)(b) was shaking as if he was nervous, which made PO Sanchez fear for his safety because of a prior incident in which another individual who was shaking pulled out a gun on PO Sanchez and his partner. No other behavior made PO Sanchez feel unsafe and § 87(2)(b) was not reaching for anything or squirming. PO Sanchez asked him why he was shaking and § 87(2)(b) did not respond.

PO Meyreles called PO Sanchez from upstairs and told him that he knocked on the door of § 87(2)(b) and the individual who opened the door, whose name was § 87(2)(b) said he did not know § 87(2)(b) after viewing his identification. § 87(2)(b) was considered under arrest for criminal trespass. PO Sanchez placed § 87(2)(b) in handcuffs and called the prisoner van. PO Sanchez patted down § 87(2)(b)'s waistband, socks and the outside of his jacket. PO Sanchez did not reach into any of § 87(2)(b)'s pockets. This was done incident to § 87(2)(b)'s arrest and was not prompted by any of PO Sanchez's observations. This was the first time PO Sanchez made physical contact with § 87(2)(b). PO Sanchez patted § 87(2)(b) down once and PO Meyreles did not pat down § 87(2)(b) or make any physical contact with him. In a couple minutes, PO Cortes, who was driving the prisoner van, arrived to the scene and § 87(2)(b) was

transported to the stationhouse.

PO Sanchez could not recall telling another officer that § 87(2)(b) should be strip-searched, and he did not hear PO Meyreles recommend this. He could not recall hearing about or knowing of § 87(2)(b) being strip-searched at the stationhouse. When individuals are strip-searched, this is done in the only bathroom in the cell area. He could not recall whether he or any officer strip-searched § 87(2)(b).

**Witness Officer: PO NORMAN ORTEGA**

- *On January 17, 2014, PO Ortega was on duty from 2:00 p.m. until 10:35 p.m. as the 23<sup>rd</sup> Precinct SNEU with PO Luis Sanchez, was dressed in uniform, and was assigned to a marked prisoner van, number 8847.*
- *On February 14, 2014, PO Ortega was on vacation.*

**Memo Book**

PO Ortega made the following notations in his memo book (encl. 10a-10d): On January 17, 2014, at 5:45 p.m., § 87(2)(b) (named as § 87(2)(b) date of birth noted) was placed under arrest at § 87(2)(b). On February 14, 2014, he was on vacation.

**CCRB Testimony**

On October 3, 2014, PO Ortega was interviewed at the CCRB (encl. 10e-10g). His testimony was consistent with PO Sanchez's regarding the incident on January 17, 2014, and included no new information.

**Witness Officer: PO JULIO MEYRELES**

- *PO Meyreles is a § 87(2)(b).*
- *On January 17, 2014, PO Meyreles was on duty from 12:00 p.m. until 8:35 p.m. as the 23<sup>rd</sup> Precinct Sergeant's Operator, was working with Sgt. Gaspar Sciacca, was dressed in uniform and assigned to an unmarked gray Chevy Impala, number 839.*
- *On February 14, 2014, PO Meyreles was on duty from 2:00 p.m. until 10:35 p.m. as the 23<sup>rd</sup> Precinct Anti-Crime Team with PO Luis Sanchez, was dressed in plainclothes and was working on foot.*

**Memo Book**

PO Meyreles had no memo book entries (encl. 8a-8d) regarding the incident on January 17, 2014. On February 14, 2014, he made the following notations: At 6:55 p.m., § 87(2)(b) was stopped by PO Sanchez inside of § 87(2)(b). He had § 87(2)(b)'s NY state identification and spoke to the tenant of § 87(2)(b) with negative results.

**CCRB Testimony**

On August 13, 2014, PO Meyreles was interviewed at the CCRB (encl. 8e-8g).

PO Meyreles had no independent recollection of the incident on January 17, 2014, even after being told details about the incident. At an unknown time on January 17, 2014, PO Meyreles saw § 87(2)(b) lying on the floor of the stationhouse by the front desk after he had a seizure. He did not learn what happened or why § 87(2)(b) was arrested, and observed no injuries on him.

Inconsistencies with PO Sanchez's testimony for the incident on February 14, 2014, and any additional information are noted below. When PO Meyreles first saw § 87(2)(b) he was

already speaking to PO Sanchez and did not see PO Sanchez stop him, as he was in another part of the lobby. PO Meyreles did not know why PO Sanchez stopped § 87(2)(b). He eventually recognized § 87(2)(b) but could not recall at what point. Neither PO Meyreles nor PO Sanchez made a comment about § 87(2)(b) being a “bad man” for still being up to certain behavior.

When § 87(2)(b) told PO Sanchez that he was staying in § 87(2)(b) he did not mention the name of the person with whom he was staying. PO Meyreles spoke to the tenant of § 87(2)(b) (described as a black male, in his 30s or 40s), and showed him § 87(2)(b)'s identification. § 87(2)(b) said that § 87(2)(b) did not live in and was not visiting his apartment, and he did not know him. After PO Meyreles went downstairs and relayed the information, he could not recall § 87(2)(b)'s reaction, but he did not say that PO Meyreles had the wrong door. PO Meyreles could not recall when § 87(2)(b) was placed in handcuffs, or if he was in handcuffs before or after PO Meyreles went upstairs, but this was done by PO Sanchez.

PO Meyreles could not recall seeing PO Sanchez pat down § 87(2)(b). PO Meyreles did not pat down or make any physical contact with § 87(2)(b). He did not reach into any of § 87(2)(b)'s pockets, nor did he see PO Meyreles do this. He could not recall § 87(2)(b) making any involuntary movement, such as shaking. PO Meyreles did not recommend that § 87(2)(b) be strip-searched and PO Sanchez did not mention this to him. PO Meyreles did not know of § 87(2)(b) being strip-searched later at the stationhouse.

#### **Subject Officer: LT WASHINGTON ZURITA**

- *Lt. Zurita is a § 87(2)(b).*
- *On January 17, 2014, Lt. Zurita was on vacation.*
- *On February 14, 2014, Lt. Zurita was on duty from 2:00 p.m. until 10:45 p.m. as the 23<sup>rd</sup> Precinct SNEU Supervisor with PO § 87(2)(b) Cintron, was dressed in uniform and assigned to an unmarked Chevy Impala, number 965.*

#### **Memo Book**

Lt. Zurita made the following notations in his memo book (encl. 12a-12d): At 6:55 p.m. Arrest § 87(2)(b) of § 87(2)(b) was effected by PO Sanchez for criminal trespassing.

#### **CCRB Testimony**

On October 30, 2014, Lt. Zurita was interviewed at the CCRB (encl. 12e-12g).

On February 14, 2014, at approximately 6:55 p.m., Lt. Zurita was present when § 87(2)(b) was inside the prisoner van, to which PO Reilly and PO Cortes were assigned, but he did not get a good look at him. He received no information about § 87(2)(b)'s behavior while he was inside the building in which he was apprehended. No officer expressed any suspicion that § 87(2)(b) was concealing anything or mentioned any odd behavior. PO Cortes and PO Reilly did not mention anything about § 87(2)(b)'s behavior inside the van.

At the stationhouse, in front of the desk, § 87(2)(b) seemed agitated and Lt. Zurita said, “Listen, sir. If you don’t have anything on you, you were in a building you were not supposed to be in, you will get a desk appearance ticket. So, relax, calm down, if you have no warrants you will be getting out of here in a few hours. Do you understand that?” § 87(2)(b) said he understood and calmed down. During this conversation, § 87(2)(b) was handcuffed and made no suspicious movements. § 87(2)(b) was eventually released with a DAT and Lt. Zurita had no further interaction with him.

When asked if Lt. Zurita suspected § 87(2)(b) of concealing any contraband, he mentioned that § 87(2)(b) had been arrested numerous times for narcotics, but this arrest

history did not cause Lt. Zurita to suspect he was concealing contraband. § 87(2)(b) was searched before he was placed in the cell, either in front of the desk or in the cell area. Lt. Zurita was not present for this search, did not know who conducted it and did not see it done at the front desk. His understanding was that the search would include any property being taken out of the individual's pockets and placed inside bags. Lt. Zurita gave no instructions regarding the search to be done on § 87(2)(b). He could not recall ordering a strip-search of § 87(2)(b) and if he did, it would have been documented in the command log and his memo book. Lt. Zurita could recall no recommendation by any officer that § 87(2)(b) be strip-searched. As the SNEU Supervisor, a strip-search would be approved by Lt. Zurita. The desk sergeant would have had no part in a decision to strip-search § 87(2)(b). In situations such as § 87(2)(b)'s in which there is a history of destroying contraband in the manner that he did on January 17, 2014, this would not factor into future decisions about strip-searches. Such decisions would only be based on behavior observed on the date of their apprehension and no prior history. Lt. Zurita heard of no strip-search of § 87(2)(b) taking place. § 87(2)(b) did not complain to Lt. Zurita about being strip-searched and he heard no such complaint being related to any other officer.

### **Medical Records**

§ 87(2)(b)'s medical records from § 87(2)(b) Health Center (see Privileged Information Folder), which refer to him as § 87(2)(b) throughout, contain the following information: On § 87(2)(b), he was brought into the Emergency Room in an epileptic state by the NYPD after an arrest for cocaine possession after which time he was suspected to have swallowed a bag of cocaine, which a police report said was witnessed by another prisoner. He was intubated and sedated, and given medication for the seizures. The medical assessment was a drug overdose from cocaine intoxication and seizure, and it was noted that he was "very high risk" and unresponsive to painful stimuli. On § 87(2)(b), he was alert and oriented, and released into police custody. During his hospitalization, he was diagnosed with unspecified tachycardia (accelerated heart rate), an unspecified drug-induced mental disorder, acidosis (excessively acid condition of the bodily fluids or tissues), generalized convulsive epilepsy, cardiac damage, pneumonia, renal failure, disorders of phosphorus metabolism and hypopotassemia (potassium deficiency), conditions for which he received treatment. He returned for follow-up appointments on § 87(2)(b), which were unremarkable.

### **NYPD Documents**

#### **Event Summaries**

The event summaries for January 17, 2014 (encl. 14a-14e), and February 14, 2014 (encl. 14f-14j), reveal no event generated for either incident. One possible match on January 17, 2014, D14021417861 (encl. 14k-14l), had an ALI/ANI number. On May 12, 2014, the undersigned investigator spoke with § 87(2)(b) who primarily uses the phone, and she denied calling 911 or witnessing the incident. § 87(2)(b) spoke to her mother, § 87(2)(b) who also uses the phone, and she denied calling 911 or witnessing the incident, information § 87(2)(b) relayed to the investigator.

#### **Command Log Entries**

The 23<sup>rd</sup> Precinct Command Log entry for January 17, 2014 (encl. 15a), notes that § 87(2)(b) (named as § 87(2)(b)) arrived at the stationhouse at 6:50 p.m. and was arrested with the charges of tampering with physical evidence – conceal/destroy (top charge), trespassing, criminal possession of a controlled substance and unlawful possession of marihuana. He left the

stationhouse at 7:00 p.m., when he was removed to § 87(2)(b) Hospital by EMS for medical treatment for a possible seizure and PO Reilly escorted him. Sgt. Sciacca verified this arrest.

The 23<sup>rd</sup> Precinct Command Log entry for February 14, 2014 (encl. 15b), notes that § 87(2)(b) arrived at the stationhouse at 8:05 p.m. and was arrested for criminal trespass. He was released with a desk appearance ticket and the arrest was verified by Lt. Zurita. The entry notes no strip-search.

### **Evidence Voucher**

On January 17, 2014, PO Ortega generated Arrest Evidence Voucher § 87(2)(b) (encl. 16a-16b) for § 87(2)(b) (referred to as § 87(2)(b) for six clear Ziploc bags of vegetative marihuana.

### **IAB Log 2014-2237**

While the CCRB case file contains the complete IAB file (encl. 17a-17jjj) as it was received, only the following is noted here as it is the only evidence relevant to the allegations addressed by the CCRB investigation. On January 24, 2014, Det. Gregory Parker interviewed § 87(2)(b) (referred to as “Omar § 87(2)(b) at § 87(2)(b) Hospital and recorded the following details in a general investigations worksheet (encl. 17ee): § 87(2)(b) stated he could not recall how he sustained his injury, but believes he had a stroke because he blacked out and was unconscious. When asked about his last memory of January 17, 2014, he said he could not recall any interaction with the police and only remembered visiting his friend.

§ 87(2)(b), § 87(2)(a) 160.50

### **Status of Civil Proceedings**

On § 87(2)(b), § 87(2)(b) filed a Notice of Claim (encl. 19a-19d) with the City of New York claiming the following: false arrest; assault and battery; excessive force; abuse of process; failure to intervene; negligence; gross negligence; negligent screening, hiring, training, retention and supervision; intentional and negligent infliction of emotional distress; prima facie tort; conspiracy; violation of privacy; and violation and deprivation of Fourth and Fourteenth Amendment rights. The amount § 87(2)(b) is seeking in redress was not specified.

§ 87(2)(b), § 87(2)(c) (impair contract awards or CRA)

### **Civilians’ CCRB Histories**

This is the first CCRB complaint filed by § 87(2)(b) and the first involving § 87(2)(b) alias § 87(2)(b) (encl. 3a; 3b).

### **Subject Officers’ CCRB Histories**

- Sgt. Sciacca and PO Sanchez have been members of the service for twelve and six years respectively and there are no substantiated CCRB allegations against them (encl. 2a; 2b-2c).
- Lt. Zurita (encl. 2d-2e) has been a member of the service for eighteen years and there are two substantiated allegations against him in CCRB 201114303 for a stop and a frisk (both abuse



of authority) for which the Board recommended charges. The NYPD issued instructions for the stop and no disciplinary action for the frisk.

- PO Reilly (encl. 2f) has been a member of the service for six years and there is one substantiated allegation against him in CCRB 201104579 for a stop (abuse of authority) for which the Board recommended command discipline and the NYPD issued no disciplinary action or penalty.

## **Conclusion**

### **Identification of Subject Officers**

- As Sgt. Sciacca acknowledged his participation in the incident on January 17, 2014, Allegation A has been pled against him.
- § 87(2)(b) said that on February 14, 2014, PO Meyreles and PO Sanchez, the latter of whom was described as having accented speech, stopped him and PO Meyreles patted him down and reached into his pockets. As both PO Meyreles and PO Sanchez said that PO Sanchez stopped and patted down § 87(2)(b) while PO Meyreles had no physical contact with him, and while PO Meyreles has accented speech while PO Sanchez does not, Allegations B through D have been pled against PO Sanchez.
- § 87(2)(b) said that an officer identified via the investigation as PO Reilly, who told him he was at the hospital with him during the previous incident, strip-searched him on February 14, 2014. As Lt. Zurita said that he and no other supervisor would have ordered this strip-search, Allegation E has been pled against him.
- § 87(2)(b) described the officer who strip-searched him on February 14, 2014, as a white male, stocky body build, blonde hair, in his late 30s. He also said this officer told him that he went to the hospital with him on January 17, 2014. As the description he provided matches that of PO Reilly (a 27-year-old white male who stands 5'7" tall, weighs 170 pounds, and has light brown hair and hazel eyes) and as the command log (encl. 15a) notes that PO Reilly went to the hospital with § 87(2)(b) on January 17, 2014, Allegation F has been pled against him.

### **Investigative Findings and Recommendations**

#### **Allegations Not Pled**

On January 17, 2014, at the 23<sup>rd</sup> Precinct stationhouse, § 87(2)(b) suffered a seizure and was taken to § 87(2)(b) Hospital, where he was in a coma. He experienced memory loss of the events before he had a seizure. In his CCRB interview, he first relayed the incident on January 17, 2014, as if he could recall it in its entirety, before acknowledging that he was only assuming how the events occurred. When asked to relay only what he could recall, he described being stopped, frisked and strip-searched inside § 87(2)(b) § 87(2)(b) who lives in the building and happened upon the incident, later informed him that he was beat up by the officers. She was unable to be reached for a statement. § 87(2)(b) thought the officers involved were PO Sanchez and PO Meyreles because they seemed to recognize him on February 14, 2014, during the second incident, but had they not recognized him, § 87(2)(b) would not know who the officers from the previous incident were. § 87(2)(b) did not know why he suffered a seizure and had no history of them. He was informed by an officer after he awoke from the coma that he tried to swallow cocaine, but he denied ever being in possession of cocaine.

According to the IAB investigation documented in IAB Log 2014-2237, Det. Parker of

IAB interviewed § 87(2)(b) at the hospital on § 87(2)(b) and he could recall no interaction he had with the police on January 17, 2014. § 87(2)(b), § 87(2)(a) Gen. Mun. § 50-h(3)

The officers of the SNEU Team who were interviewed, PO Cortes, PO Reilly, Sgt. Sciacca, PO Meyreles, PO Sanchez and PO Ortega, agree on the following: PO Cortes, PO Cintron and PO Reilly were assigned to the observation post, Sgt. Sciacca and PO Meyreles to the catch car, and PO Sanchez and PO Ortega to the prisoner van. PO Cortes and Sgt. Sciacca said that PO Cortes made observations from her patrol car of § 87(2)(b) going in and out of NYCHA buildings including § 87(2)(b) information she relayed to Sgt. Sciacca, who apprehended him when he left the NYCHA complex and walked to Park Avenue. No officer testified that they or any officer were inside § 87(2)(b) or that § 87(2)(b) was apprehended inside.

§ 87(2)(b), § 87(2)(g), § 87(2)(a) Gen. Mun. § 50-h(3)

**Allegation A: Abuse of Authority: On January 17, 2014, at § 87(2)(b) in Manhattan, Sgt. Gaspar Sciacca stopped § 87(2)(b)**

§ 87(2)(g)

§ 87(2)(b) Sgt. Sciacca said that PO Cortes, who was assigned to the observation post, put information over the point-to-point radio that § 87(2)(b) was observed exiting and entering three different NYCHA buildings that included § 87(2)(b) Sgt. Sciacca knew from his SNEU experience that this behavior, which SNEU officers targeted, was indicative of drug sales and signified someone going into the buildings to buy or sell drugs in the lobby or stairwell. PO Cortes did not mention any other behavior or any transaction that she observed. When § 87(2)(b) began walking toward Park Avenue, where Sgt. Sciacca was located, PO Cortes informed him of this and Sgt. Sciacca stopped § 87(2)(b) who was not considered free to go. Although § 87(2)(b) had left the NYCHA complex and was not near it once he reached Park Avenue, he was stopped for trespassing as a tactic to investigate drug sales. He was not stopped closer to § 87(2)(b) as to not reveal the officers' identities. While Sgt. Sciacca thought it was possible that § 87(2)(b) had been involved in a drug sale, the only suspicion he had of him was trespassing. Upon questioning § 87(2)(b) he denied being inside more than one NYCHA building, where he said he was visiting a friend, and provided no explanation for why he was inside more than one. Sgt. Sciacca then arrested him for trespassing. Sgt. Sciacca mentioned no arrest made in association with § 87(2)(b)s and his memo book records none.

PO Cortes said that from her patrol car, she observed § 87(2)(b) briefly speak with an unidentified male before they both entered § 87(2)(b) inside of which she could not see what was happening. After two minutes, they exited and the unidentified male eventually re-entered, and was not seen again. § 87(2)(b) then entered § 87(2)(b) and exited five minutes later. He was approached by a second unidentified male, who was dressed unkemptly and who PO Cortes said looked like a drug user, as his behavior and demeanor were similar to other drug users she had previously arrested. § 87(2)(b) and the second male spoke for about five minutes, during which time he seemed to be repeatedly asking § 87(2)(b) for

something. § 87(2)(b) made a gesture as if to tell him to wait, entered § 87(2)(b) and exited after two minutes and motioned for the male to come inside with him. PO Cortes could not see what occurred inside. When the second male exited, PO Cortes put over the radio his direction, and he was eventually apprehended by Sgt. Sciacca, which she did not witness. When § 87(2)(b) exited, PO Cortes put over the radio the buildings in and out of which he had went, his description and his direction. § 87(2)(b) was apprehended by Sgt. Sciacca, but PO Cortes did not witness this. PO Cortes suspected § 87(2)(b) of trespassing, given the two buildings he accessed without a key (the doors on both were unlocked), and nothing else. PO Cortes observed no transaction take place nor did she see anyone with currency.

Reasonable suspicion of criminal activity is required for a forcible stop, People v. DeBour, 386 N.Y.S.2d 375 (1976) (encl.1a-1k). The presence of a suspicious looking person inside of a high-crime location does not provide officers with an objective credible reason to approach and question said person, People v. Johnson, 2013 NY Slip Op 05723 (App. Div. 1<sup>st</sup> Dep't. 2013) (encl.11-1o). When an individual enters a drug-prone NYCHA building by some other means than a key or buzzer, the officers have only an objective credible reason to ask the individual whether or not they live in the building, People v. Martinez, 924 N.Y.S.2d 311 (2012) (encl.1p-1r).

§ 87(2)(b), § 87(2)(g)

**Allegation B: Abuse of Authority: On February 14, 2014, at § 87(2)(b) in Manhattan, PO Luis Sanchez stopped § 87(2)(b)**

§ 87(2)(b) said that as a result of the incident on January 17, 2014, his grandmother, with whom he lived, kicked him out and he was staying with his friend, identified as § 87(2)(b) who lived in § 87(2)(b) of § 87(2)(b) § 87(2)(b) entered this building and pressed the elevator button when PO Meyreles said, “Oh, you a bad man. You almost died and you still doing what you doing?” Both officers asked § 87(2)(b) where he was going and he responded that he was going home. The officers asked for his identification, which he provided. When the officers noted that his identification had a different address, he explained his situation and said that if they took him upstairs, he could show them that he had a key for an apartment. The officers did not take him upstairs, but PO Sanchez went upstairs by himself while PO Meyreles stayed with him downstairs. PO Sanchez came back downstairs after five minutes and accused § 87(2)(b) of lying. § 87(2)(b) told PO Sanchez he must have had the wrong door and asked him on what door he knocked, because no one was in the apartment for which he had the key. PO Sanchez said either § 87(2)(b) § 87(2)(b) told PO Sanchez he knocked on the wrong door, but PO Sanchez did not respond.

§ 87(2)(b) said § 87(2)(b) has visited and slept over at his apartment, but he has only given a key to the apartment in instances where he briefly ran errands. He could not recall if § 87(2)(b) had a key to his apartment on February 14, 2014. § 87(2)(b) did stay with him for a night or two in February, but he was unsure if February 14, 2014, was one of these dates.

PO Sanchez said that when he was conducting a SNEU set in the lobby of the building, he observed § 87(2)(b) in the lobby, looking out a window on the door. PO Sanchez’s attention



handcuffs before or after PO Meyreles went upstairs, but this was done by PO Sanchez. PO Meyreles denied patting down or making physical contact with § 87(2)(b) or reaching into his pockets, and could not recall PO Sanchez doing this. PO Sanchez confirmed PO Meyreles's testimony and said that after he received the call from PO Meyreles, who was upstairs, § 87(2)(b) was considered under arrest for trespassing. PO Sanchez patted down § 87(2)(b)'s waistband, socks and the outside of his jacket, but denied reaching into any of § 87(2)(b)'s pockets. This was done incident to § 87(2)(b)'s arrest and was not prompted by any of PO Sanchez's observations. This was the first time PO Sanchez made physical contact with § 87(2)(b). PO Sanchez only did this once and it was not repeated.

§ 87(2)(b), § 87(2)(g)

**Allegation E: Abuse of Authority: On February 14, 2014, at the 23rd Precinct stationhouse, Lt. Washington Zurita authorized the strip-search of § 87(2)(b)**

**Allegation F: Abuse of Authority: On February 14, 2014, at the 23rd Precinct stationhouse, PO Christopher Reilly strip-searched § 87(2)(b)**

§ 87(2)(b) said that when he was in a cell at the stationhouse, PO Reilly, who was not involved in his arrest, came to retrieve § 87(2)(b). PO Reilly said he was taking § 87(2)(b) into a bathroom to be strip-searched. PO Reilly took § 87(2)(b) to the bathroom next to the cell area. He instructed § 87(2)(b) to remove his shirt, pants, socks and boots, which § 87(2)(b) did. He told § 87(2)(b) to clap his boots and turn his socks inside out, which he did. PO Reilly looked inside the pockets of his pants. PO Reilly then instructed § 87(2)(b) to remove his underwear, turn around, bend over, cough and squat, which he did in this order. Nothing was found during this strip-search.

Lt. Zurita, who authorized § 87(2)(b)'s arrest, said that § 87(2)(b) was searched before he was placed in the cell, either in front of the desk or in the cell area. Lt. Zurita was not present for this search, did not know who conducted it and did not see it done at the front desk. His understanding was that the search would include any property being taken out of § 87(2)(b)'s pockets and placed inside bags. Lt. Zurita gave no instructions regarding the search to be done on § 87(2)(b). He could not recall ordering a strip-search of § 87(2)(b) and if he did, it would have been documented in the command log and his memo book. Lt. Zurita could recall no recommendation by any officer that § 87(2)(b) be strip-searched. Lt. Zurita would be the only officer who could authorize the strip-search of § 87(2)(b) as he was the SNEU Supervisor, and the desk sergeant would have had no part in this decision. Lt. Zurita heard of no strip-search of § 87(2)(b) taking place. § 87(2)(b) did not complaint to Lt. Zurita about being strip-searched and he heard no complaint directed being related to any other officer.

PO Reilly denied seeing and strip-searching § 87(2)(b) on February 14, 2014. No officer involved in the incident on this day acknowledged recommending a strip-search.

The command log entry for § 87(2)(b) on February 14, 2014 (encl. 15b), notes no strip-search being conducted of § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

Team: Four

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date